

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>MARITIME COMMUNICATIONS/LAND</b>	)	EB Docket No. 11-71
<b>MOBILE, LLC</b>	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of	)	
Various Authorizations in the Wireless Radio	)	Application File Nos. 0004030479,
Services	)	0004144435, 0004193028,
	)	0004193328, 0004354053,
Applicant with <b>ENCANA OIL AND GAS (USA),</b>	)	0004309872, 0004310060,
<b>INC.; DUQUESNE LIGHT COMPANY; DCP</b>	)	0004314903, 0004315013,
<b>MIDSTREAM, LP; JACKSON COUNTY</b>	)	0004430505, 0004417199,
<b>RURAL MEMBERSHIP ELECTRIC</b>	)	0004419431, 0004422320,
<b>COOPERATIVE; PUGET SOUND ENERGY,</b>	)	0004422329, 0004507921,
<b>INC.; ENBRIDGE ENERGY COMPANY, INC.;</b>	)	0004153701, 0004526264,
<b>INTERSTATE POWER AND LIGHT</b>	)	0004636537, and 0004604962
<b>COMPANY; WISCONSIN POWER AND</b>	)	
<b>LIGHT COMPANY; DIXIE ELECTRIC</b>	)	
<b>MEMBERSHIP CORPORATION, INC.;</b>	)	
<b>ATLAS PIPELINE – MID CONTINENT, LLC</b>	)	
<b>DENTON COUNTY ELECTRIC</b>	)	
<b>COOPERATIVE, INC., DBA COSERV</b>	)	
<b>ELECTRIC; AND SOUTHERN CALIFORNIA</b>	)	
<b>REGIONAL RAIL AUTHORITY</b>	)	
	)	
For Commission Consent to the Assignment of	)	
Various Authorizations in the Wireless Radio	)	
Services	)	

**FILED/ACCEPTED**

**DEC 15 2011**

Federal Communications Commission  
Office of the Secretary

To: Marlene H. Dortch, Secretary  
Attention: Chief Administrative Law Judge Richard L. Sippel

**SKYTEL REPLY TO COMMENTS ON AND LIMITED OBJECTION TO JOINT  
MOTION FOR LEAVE TO SERVE DISCOVERY**

Warren C. Havens, Environmentel LLC, Intelligent Transportation and Monitoring  
Wireless LLC, Skybridge Spectrum Foundation, Telesaurus Holdings GB LLC, Verde Systems  
LLC, and V2G LLC (collectively, "SkyTel"), by their attorneys, hereby reply to the Comments

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on and Limited Objection to Joint Motion for Leave to Serve Discovery submitted by Maritime Communications/Land Mobile, LLC (“Maritime”) on December 9, 2011 (the “Maritime Comments”).

Maritime’s complaint is essentially that SkyTel is “attempting to litigate” the question of whether certain of Maritime’s site-based licenses have automatically terminated “on multiple fronts.”<sup>1</sup> According to Maritime, these multiple fronts include the hearing proceeding before the Presiding Judge, Maritime’s bankruptcy proceeding, and a request SkyTel submitted to the Wireless Telecommunications Bureau pursuant to Section 1.41 of the Commission’s rules seeking a ruling that one of Maritime’s site-based licenses, WRV374, has automatically terminated. Maritime requests that the Presiding Judge issue a “directive that SkyTel cease and desist from all efforts to litigate the merits of this issue in other forums.”

The Presiding Judge should immediately deny this request, for several reasons. First, with respect to issues in Maritime’s bankruptcy proceeding, SkyTel respectfully submits that the Presiding Judge has no authority to issue a “directive” that SkyTel do or not do anything in that proceeding. There is no basis whatsoever for Maritime’s demand that SkyTel be compelled to sit on its hands in the bankruptcy proceeding because that might be more convenient for Maritime. Maritime’s complaint that it was “forced to respond to extensive document production requests and submit to depositions at the hands of SkyTel” is particularly brazen.<sup>2</sup> In fact, Maritime fervently attempted to avoid discovery in its bankruptcy proceeding, only to be directed by the bankruptcy judge to comply. Having failed to circumvent discovery in the bankruptcy

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<sup>1</sup> Maritime Comments at 2.

<sup>2</sup> *Id.* at 3.



proceeding, Maritime is now essentially asking the Presiding Judge to overrule determinations of the bankruptcy judge as to what SkyTel is or is not entitled to do in the context of the bankruptcy proceeding. That is an outrageous overreach that, given the complete absence of support, represents a frivolous and even sanctionable request.<sup>3</sup>

Second, with respect to SkyTel's request pursuant to Section 1.41, the Wireless Bureau might, of course, decline to consider the request or to direct SkyTel to act only in the hearing proceeding. However, to date, it has not done so. Notwithstanding the present hearing proceeding, Maritime's ongoing licensing obligations remain in effect. Thus, Maritime submitted an application for the renewal of the license for station WRV374, an application which SkyTel properly petitioned to deny. There is no reason that SkyTel should not be permitted to submit relevant requests for relief to the Bureau before which Maritime's renewal application is pending.

More fundamentally, the Maritime Comments provide no real legal support whatsoever for the proposition that SkyTel should be forced to proceed only on Maritime's terms and in the forum of Maritime's choosing. Maritime does not articulate a legal argument in support of its position to which SkyTel might respond. Essentially, Maritime's "argument" consists of little more than an entreaty concerning the unfairness of having to engage in litigation with limited finances. As the Presiding Judge noted during the prehearing conference on October 25, 2011,

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<sup>3</sup> This is particularly so given that SkyTel's district court action against Maritime, which is the subject of SkyTel's proof of claim against Maritime in Maritime's bankruptcy proceeding, is based, among other things, on Section 207 of the Communications Act of 1934, as amended. Section 207 specifically authorizes actions for the recovery of damages in district court. 47 U.S.C. § 207. To the extent SkyTel was required to "cease and desist" from any litigation over the site-based licenses in any forum other than this proceeding, then, SkyTel might forfeit the damages claim underlying its proof of claim in Maritime's bankruptcy proceeding.



Maritime's financial challenges provide no basis for delaying or circumventing litigation.<sup>4</sup> There are no grounds for limiting SkyTel's rights on the basis of Maritime's finances, and Maritime's ongoing attempts to use its dire financial straits as a shield are frivolous.

Most importantly, the Maritime Comments provide no basis for any further delay in proceeding with discovery in the present proceeding. Pursuant to the Presiding Judge's instructions at the pre-hearing conference on October 25, 2011, SkyTel and the Enforcement Bureau jointly submitted discovery requests for review by the Presiding Judge. The Presiding Judge has already noted that Maritime's "repeated tardiness followed by the requests for more time based on questionable justifications, approaches the line of an abuse of the Commission's process and rules of practice."<sup>5</sup> Maritime itself states that it is "prepared and willing to timely comply with discovery requests" submitted pursuant to the Presiding Judge's instructions, and nothing in the Maritime Comments could plausibly warrant delay. SkyTel respectfully submits that, assuming the Presiding Judge in his discretion sees fit to allow the joint discovery requests, Maritime should comply with those requests promptly, as it already has the requests in hand.

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<sup>4</sup> Transcript at 256.

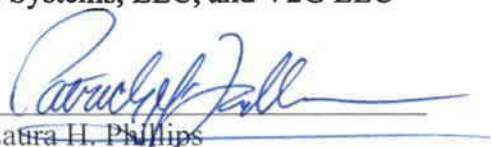
<sup>5</sup> *Maritime Communications/Land Mobile, LLC*, Memorandum Opinion and Order, EB Docket No. 11-71, FCC 11M-33 at 3 (ALJ Nov. 8, 2011).



Respectfully Submitted,

Warren C. Havens, Environmentel, LLC,  
Intelligent Transportation and Monitoring  
Wireless, LLC, Skybridge Spectrum  
Foundation, Telesaurus Holdings GB, LLC,  
Verde Systems, LLC, and V2G LLC

By:



~~Laura H. Phillips~~

Howard M. Liberman

**Patrick R. McFadden**

**Drinker Biddle & Reath LLP**

1500 K Street, N.W., Suite 1100

Washington, DC 20005-1209

Laura.Phillips@dbr.com

Howard.Liberman@dbr.com

Patrick.McFadden@dbr.com

202-842-8800

202-842-8465/66 (fax)

Their Attorneys

December 15, 2011



### CERTIFICATE OF SERVICE

I, Patrick R. McFadden, hereby certify that on this 15<sup>th</sup> day of December, 2011, a true copy of this Opposition was served via first class, postage paid United States Mail upon the following:

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Robert J. Keller  
Law Offices of Robert J. Keller, P.C.  
P.O. Box 33428  
Washington, DC 20033

Robert J. Miller, Esquire  
Gardere Wynne Sewell LLP  
1601 Elm Street, Suite 3000  
Dallas, TX 75201

Robert M. Gurss, Esquire  
Paul J. Feldman, Esquire  
Harry F. Cole, Esquire  
Christine Goepf, Esquire  
Fletcher, Heald & Hildreth, P.L.C.  
1300 N Street, 11<sup>th</sup> Floor  
Arlington, VA 22209

Kurt E. Desoto, Esquire  
Joshua S. Turner  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006

Dennis C. Brown  
8124 Cooke Court, Suite 201  
Manassas, VA 20109

Pamela A. Kane, Deputy Chief  
Investigations and Hearing Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 4-C330  
Washington, DC 20554

Jack Richards, Esquire  
Wesley K. Wright, Esquire  
Keller and Heckman LLP  
1001 G Street, N.W.  
Suite 500 West  
Washington, DC 20001

Albert J. Catalano, Esquire  
Matthew J. Plache, Esquire  
Catalano & Plache, PLLC  
3221 M Street, N.W.  
Washington, DC 20007

Charles A. Zdebski, Esquire  
Eric J. Schwalb, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Avenue, N.W.  
Washington, DC 20006

Jeffrey L. Sheldon, Esquire  
Fish & Richardson, P.C.  
1425 K Street, N.W.  
11<sup>th</sup> Floor  
Washington, DC 20005

Sandra DePriest  
Maritime Communications/Land Mobile LLC  
218 North Lee Street  
Suite 318  
Alexandria, Virginia 22314



Patrick R. McFadden